IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

**THE HONOURABLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION NO.13084 of 2004

Between:

G.Subba Rao, S/o.G.Anjaneyulu, 72 years,
R/o.Mallavaram Lanka, Narsapur Mandal, West Godavari District.

**...PETITIONER**

AND

1. The Mandal Revenue Officer, Narsapur Mandal, West Godavari District.
2. The Revenue Divisional Officer, Narsapur Division, West Godavari District, Narsapur.
3. Didla Pushpavathi, W/o.Late Ditla Babu Rao,
R/o.Mallavarampedalanka, Narsapur Mandal, West Godavari District.

**...RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or direction declaring the order in Proceedings D.Dis.No.127/2004 (Dy.MRO) dated 22.07.2004 issued by the 1st respondent herein directing the eviction of the petitioner herein from the land admeasuring Ac.0.84 cents situated in R.S.No.347/19 of Mallavarampedalanka Village, Narsapur Mandal, West Godavari District and consequential restoration of possession to the 3rd respondent herein as illegal, arbitrary, unreasonable, null and void and violative of Articles 14,21 and 300-A of the Constitution of India and principles of natural justice and opposed to the very spirit and object of the Provisions of the Andhra Pradesh Assigned Lands (Prohibitions of Transfers) Act, 1977 and the Rules framed there under.

**Counsel for the Petitioner: MR.A.V.SESHA SAI**

**Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE**

The Court made the following:

**ORDER:**

The third respondent herein made a representation to the first respondent alleging that she was assigned land admeasuring Ac.0.84 cents in R.S.No.347/19, Mallavarampedalanka Village, Narsapur Mandal, that the petitioner herein fraudulently occupied the land and therefore, he be evicted and land to be restored to her. However alleging that the representation was not disposed of by the Mandal Revenue Officer (for short 'the MRO'), she filed Writ Petition No.1890 of 2004 before this Court. This Court disposed of the said Writ Petition on 04.02.2004, directing the first respondent to consider the representation of the petitioner, dated 12.12.2003 and pass appropriate orders there on. Accordingly, the MRO verified into the representation and by impugned order dated 22.07.2004 ordered to evict the petitioner, duly forfeiting the crop existing in the land to the Government. The first respondent also ordered to restore the possession of the land to the third respondent. This order is challenged in the Writ Petition.

Sri A.V.Sesha Sai, learned counsel for the petitioner submits that under the provisions of the A.P.Assigned Lands (Prohibition of Transfers) Act 1977 ('the Act' for brevity), there is no provision empowering the MRO to restore the assigned land to the original assignee after evicting the person in possession in contravention of the provisions of Section 3 and 4 of the Act. Learned counsel however does not dispute the fact that the land is assigned land, which was transferred to the petitioner under registered sale deed dated 09.10.2002. Learned counsel also does not dispute that the first respondent issued notice to the petitioner, after considering the representation and after coming to a conclusion that the assigned land was transferred in favour of the petitioner in contravention of the provisions of the Act. A reading of Section 4 (1) (b) of the Act would disclose that if the assigned land is transferred in contravention of the provisions of Section 3 (1) of the Act, it shall be open to the officer not below the rank of Tahsildar (MRO) to take possession of the assigned land after evicting the person in possession and restore the assigned land to the original assignee or his/her legal heirs and where it is reasonably impracticable to restore the land to the assignee, resume the land to the Government for assignment to landless poor persons. Further, under Section 4A of the Act an appeal would lie against the order of the MRO having jurisdiction over the area, but the petitioner has not availed the remedy. Therefore, this Court is not inclined to accept the Writ Petition. Giving liberty to the petitioner to avail remedy under Section 4A of the Act, the Writ Petition is disposed of.

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**(V.V.S.RAO, J)**

27th July 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copies To:

1. The Mandal Revenue Officer, Narsapur Mandal, West Godavari District.
2. The Revenue Divisional Officer, Narsapur Division, West Godavari District, Narsapur.
3. Two CCs to G.P. for Home, High Court Buildings, Hyderabad (OUT).
4. Two CD copies.